REMARKS

35 U.S.C. § 112

The Examiner has rejected claims 3, 8 and 11 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and directly claim the subject matter which the applicant regards as the invention. Applicant has canceled claims 3 and 8. Nonetheless, the limitations of claims 3 and 8 have been recited in amended claims 1 and 6, respectively. Therefore, the applicant offers the following arguments in relation to the language now recited in claims 1 and 6.

Paragraph [0022] and corresponding figure 2 of the present application illustrate one pay table having a range of both low sums (e.g., 5-12) and high sums (e.g., 23-30) associated with a single wager. Consequently, the player receives a payout as long as the five dice sum lands in the 5-12 range or in the 23-30 range. The player does not need to identify which sum he or she is aiming for as the pay table takes into account the probabilities of both occurring. However, after an initial roll the dice will tend to push the player in either a high sum direction or low sum direction. For example, an initial roll comprising a 2, 2, 4, 1 and 6 should push the player in the direction of a low sum. Accordingly, the player would likely hold the 1, 2 and 2 and re-roll the 4 and 6 in an effort to minimize the sum of the five dice.

Regarding claim 11, as set forth in paragraph [0027] of the present application, conservative, aggressive and high risk relate to the selectable pay tables. Accordingly, a conservative pay table pays less reward per winning outcome but includes more possible winning outcomes; an aggressive pay table pays more per outcome but includes less winning outcomes and high risk pay table pays the most per outcome but includes the least number of winning outcomes. For example, assuming a five dice embodiment, the conservative pay table may pay for sums of 5-12 and 23-30, the aggressive pay table may pay for sums of 5-11 and 24-30 and the high risk pay table may pay for sums 5-9 and 26-30. Thus, the payout for a sum of 27 will differ with each selected pay table such that the conservative payout is the least, the aggressive is second least and the high risk pay table has the highest payout. Thus, depending on the pay table selected, the player may miss an opportunity for a payout or may improve the payout.

Based on the foregoing, applicant respectfully believes that the section 112 rejections have been overcome.

35 U.S.C. § 102(e)

The Examiner has rejected claims 1, 6, 13, 15, 17 and 19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,746,016 to Perrie. Applicant respectfully disputes the Examiner's position.

In order for a reference to anticipate a claim, the reference must disclose or teach each recited element in the claim. As pointed out below, Perrie does not disclose or teach each element of claims 1, 6, 13, 15, 17 and 19.

Each of the rejected claims recites a wager being dependent upon a pre-established range of low dice sums and high dice sums or equivalent language. While Perrie discloses calculating a hand value by summing dice and even subtracting certain dice values from others (column 4, lines 37-43), Perrie does not disclose a wager being dependent upon a low dice sum and a high dice sum. In fact, Perrie does not offer any type of system based on dice sums other than to mention the possibility in passing. Accordingly, Perrie cannot anticipate claims 1, 6, 13, 15, 17 and 19.

The Examiner further rejects claims 1, 3, 5 and 6 under 35 U.S.C. § 102(e) as being anticipated by Tarantino. Again, applicant respectfully disputes the Examiner's position.

While applicant concurs that Tarantino suggests the use of sums to resolve a wager, the sums are not dice sums as recited in claims 1, 3, 5 and 6. In Tarantino, the sum comprises a total sum of an upper portion of a scorecard and a lower portion of the scorecard (see, column 10, lines 20-59). It is apparent from the table listed in column 10, that the concept mirrors the well-known board game Yahtzee®. Thus, a player attempts to categorize a series of independent sessions of dice rolls. In a conventional fashion, a player initially rolls five dice and then holds or discards each of the dice. Each non-held dice is then rolled a second time. Next, the player may hold or discard each of the dice rolled the second time. Finally, the player rolls the non-held dice from the second roll a third and final time. The player must then place the five dice result into one of thirteen categories as set forth in the table listed in column 10. This continues until the player has undertaken thirteen independent roll sessions.

The upper portion of the scorecard relates to matching dice. For example, a final roll comprising four 5s and a 2, could be placed in the "fives" category of the upper scorecard for 20 points (4 x 5) or the four of a kind for a total of 22 (5+5+5+5+2). After the thirteen rolls, the scores for each category are added up for total game score. And as suggested by Tarantino, a score equal to or greater than 63 on the upper scorecard triggers a 35 point bonus. Column 15 suggests that jackpots may be paid for high scores, low scores or both high and low scores. However, the high and low scores are based on the total game score. In other words, the jackpot is based on getting a high or low total score, not a particular dice sum. Also, Tarantino requires thirteen rolls prior to the low scores and high scores.

Contrarily, the rejected claims are based on rolling a pre-established number of dice (e.g., 5) a pre-established number of times (e.g., 3) and then resolving a wager dependent upon a pre-established range of low dice sums and high dice sums. Tarantino does not disclose paying an award based on dice sums but rather a total game score which is based on a point system dependent in part on the sequence of dice, not the sum of the dice. The game score includes the lower scorecard which does not relate to dice sums at all and, in most cases, the upper scorecard is based on less than all the rolled dice. Consequently, Tarantino does not resolve wagers based on dice sums and cannot anticipate claims 1, 3, 5 and 6.

35 U.S.C. 103(a)

The Examiner has rejected claims 2, 4, 7-11, 14 and 18 under 35 U.S.C. §103(a) as being unpatentable over Perrie. Claims 2, 4 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tarantino. Finally claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatebtable over Perrie in view of Bridgeman. Applicant respectfully believes that the claim amendments along with the arguments presented above, render the section 103 rejections moot.

Nonetheless claims 4, 10, 11 and new claims 21-22 recite multiple pay tables from which the player may select prior to starting play. Each pay table has different odds of achieving a winning outcome such that common winning outcomes have different payouts.

Applicant also incorporates by reference the argument regarding claim 11 under the section 112 heading. Perrie does not disclose, suggest or teach multiple different pay tables. On the other hand, Perrie discloses a conventional pay table including corresponding payouts related to a different number of coins wagered (see column 7, lines 61-65). With the Perrie pay table, regardless of the number of coins wagered, the number of winning outcomes is identical and the payouts are the same except they increase as a product of the wager. With the present application and claims, the multiple pay tables have different levels of risk based on different numbers of winning outcomes. Accordingly, common outcomes within the multiple pay tables correspond to different outcomes based on the pay table selected.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are respectfully requested. Should any questions remain regarding the allowability of the application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

Quirk & Tratos
3773 Howard Hughes Pkwy.
Suite 500 North
Las Vegas, Nevada 89109

By: _____
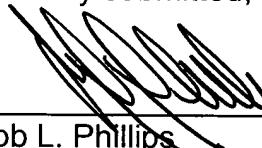
Rob L. Phillips
Registration No. 40,305

Telephone : 702-792-3773
Facsimile : 702 792-9002

Date: September 24, 2004

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of fees which may be required by this paper to Deposit Account No. 502466 including any fee for extension of time, or the fee for additional claims which may be required. Please show our docket number with any Deposit Account transaction. A copy of this letter is enclosed.

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